

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**ACTUS, LLC,**

**Plaintiff,**

**v.**

**BANK OF AMERICA CORP., et al.**

**Defendants.**

**CIVIL ACTION NO. 2:09-cv-102-TJW**

**JURY TRIAL DEMANDED**

**JOINT MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT,  
WITHDRAW MOTIONS TO DISMISS, AND ENLARGE TIME IN WHICH TO  
RESPOND TO SECOND AMENDED COMPLAINT**

Comes now Plaintiff Actus, LLC (“Actus”) and Defendants Bank of America Corp. (“BoA”), Capital One Financial Corp. (“Capital One”), Enable Holdings (“Enable”), Google, Inc. (“Google”), Green Dot Corp. (“Green Dot”), JP Morgan Chase & Co. (“JPMC”), MasterCard International, LLC (“MasterCard”), Meta Financial Group, Inc. (“Meta”), M&T Bank Corp. (“M&T”), Obopay, Inc. (“Obopay”), Sonic Solutions (“Sonic”), Visa Inc. (“Visa”), Vivendi Universal U.S. Holding Co. and Vivendi Universal, SA (collectively “Vivendi”), Wal-Mart Stores, Inc. (“Wal-Mart”), The Walt Disney Co. (“Disney”), and The Western Union Co. (“Western Union”) and jointly file this Motion for Leave to File Second Amended Complaint, Withdraw Motions to Dismiss, and Enlarge Time in Which to Respond To Second Amended Complaint and would show the Court as follows:

Actus respectfully requests leave to file its Second Amended Complaint. A copy of the Second Amended Complaint is attached as Exhibit A.<sup>1</sup> Counsel for the parties have conferred, and Defendants do not oppose Actus' request for leave to file its Second Amended Complaint.

In light of Actus' Second Amended Complaint, and should the Court grant Actus' request for leave, Defendants BoA, Capital One, Enable, Green Dot, MasterCard, and Visa hereby withdraw their pending motions to dismiss without prejudice. (Dkt. Nos. 58, 77, 101, 114, 128, 142).

All Defendants request twenty-one (21) days to evaluate and answer or otherwise respond to the Second Amended Complaint. Counsel for the parties have conferred, and Actus does not oppose a twenty-one (21) day response period.

Dated: August 12, 2009

Respectfully Submitted,

By: /s/ David G. Wille

By: /s/ William E. "Bo" Davis, III

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By: /s/ Eric Hugh Findlay

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<sup>1</sup> Exhibits A thru D to the Second Amended Complaint are copies of the patents-in-suit and will be attached to the Second Amended Complaint upon filing thereof, should the Court grant this motion.

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**ATTORNEY FOR DEFENDANT THE  
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### **CERTIFICATE OF CONFERENCE**

The undersigned certifies that counsel for the parties conferred regarding this motion and the parties agree upon the relief requested herein.

/s/ William E. "Bo" Davis, III  
William E. "Bo" Davis, III

### **CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic served were served with a true and correct copy of the foregoing by email, on this the 12th day of August, 2009.

/s/ William E. "Bo" Davis, III  
William E. "Bo" Davis, III